

# United States District Court, Northern District of Illinois

(9)

|   |  |   |          |
|---|--|---|----------|
| Name of Assigned Judge<br>or Magistrate Judge | James B. Moran                                   | Sitting Judge if Other<br>than Assigned Judge |          |
| CASE NUMBER                                   | 00 C 1821  | DATE  | 5/1/2001 |
| CASE<br>TITLE                                 | Kimberly Kuss vs. Thompson & Formby, Inc. et al. |   |          |

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

## Memorandum Opinion and Order

**DOCKET ENTRY:**

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. Plaintiff moves to quash the deposition subpoena, contending that Kessler's records and communications as a therapist are privileged from disclosure pursuant to the Illinois Mental and Developmental Disabilities Confidentiality Act, 740 ILCS 110/10. That motion is denied, but the deposition shall be limited to what plaintiff told Kessler about the immediate events at the time of the fire. Status hearing set for May 10, 2001 at 9:45am. to stand.
- (11) ☒ [For further detail see order attached to the original minute order.]

|                                     |   |  |                           |   |
|-------------------------------------|---|--|---------------------------|---|
| <input type="checkbox"/>            | No notices required, advised in open court. |  | number of notices         | <b>Document Number</b><br><br><div style="font-size: 48px; text-align: center;">9</div> |
| <input type="checkbox"/>            | No notices required.                        |  | MAY - 2 2001              |   |
| <input type="checkbox"/>            | Notices mailed by judge's staff.            |  | date docketed             |   |
| <input type="checkbox"/>            | Notified counsel by telephone.              |  | docketing deputy initials |   |
| <input checked="" type="checkbox"/> | Docketing to mail notices.                  |  | date mailed notice        |   |
| <input type="checkbox"/>            | Mail A 450 form.                            |  | mailing deputy initials   |   |
| <input type="checkbox"/>            | Copy to judge/magistrate judge.             |  |                           |   |
| WAH<br>courtroom deputy's initials  |   | Date/time received in central Clerk's Office |                           |   |

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

KIMBERLY KUSS,

Plaintiff,

vs.

No. 00 C 1821

THOMPSON & FORMBY, INC., a  
corporation, and SHERWIN-WILLIAMS  
CO., a corporation,

Defendants.

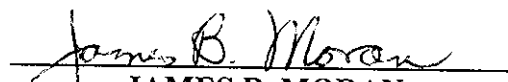
**DOCKETED**

MAY - 2 2001

MEMORANDUM OPINION AND ORDER

Plaintiff suffered significant burns from a fire ignited while she was using defendants' paint spray. Defendant seeks to take the deposition of a licensed clinical social worker, Sara Kessler, at the hospital burn unit where she was treated. Plaintiff moves to quash the deposition subpoena, contending that Kessler's records and communications as a therapist are privileged from disclosure pursuant to the Illinois Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/10. That motion is denied, but the deposition shall be limited to what plaintiff told Kessler about the immediate events at the time of the fire. Kessler's report is itself inadmissible.

Plaintiff has not introduced her mental condition in the proceeding, and any inquiry relating to mental condition is foreclosed by the statute. We believe, however, that D.C. v. S.A., 227 Ill.Dec. 550, 687 N.E.2d 1032 (Ill. 1997) dictates the result here – a short and narrowly focused deposition.

  
JAMES B. MORAN  
Senior Judge, U. S. District Court

May 1, 2001.

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